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DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-908, A-583-869, A-549-842, A-552-828]

Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable June 22, 2020.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva; AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3208.

SUPPLEMENTARY INFORMATION:

The Petitions

On May 13, 2020, the Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of passenger vehicle and light truck tires (passenger tires) from the Republic of Korea (Korea), Taiwan, Thailand, and the Socialist Republic of Vietnam (Vietnam) filed in proper form on behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO,

CLC (the petitioner).¹ The Petitions were accompanied by a countervailing duty (CVD) petition concerning imports of passenger tires from Vietnam.²

Between May 18 and 22, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.³ The petitioner filed responses to the supplemental questionnaires between May 20 and 26, 2020.⁴

On May 21, 2020, Commerce extended the initiation deadline by 20 days to poll the domestic industry in accordance with section 702(c)(4)(D) of the Act, because it was not “clear from the Petitions whether the industry support criteria have been met”⁵

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of passenger tires from Korea, Taiwan, Thailand, and Vietnam are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the passenger tires industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

¹ See Petitioner’s Letter, “Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam – Petition for the Imposition of Antidumping and Countervailing Duties,” dated May 13, 2020 (the Petitions).

² *Id.*

³ See Commerce’s Letters, “Petitions for the Imposition of Antidumping Duties on Imports of Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam: Supplemental Questions,” dated May 18, 2020; and “Country-Specific Supplemental Questionnaires: Korea Supplemental, Thailand Supplemental, Taiwan Supplemental, Vietnam Supplemental,” dated May 18, 2020; *see also* “Petition for the Imposition of Antidumping Duties on Imports of Passenger Vehicle and Light Truck Tires from the Thailand: Second Supplemental Questionnaire,” dated May 21, 2020.

⁴ See Petitioner’s Country-Specific Supplemental Responses, dated May 20, 2020; *see also* Petitioner’s Letter, “Passenger Vehicle and Light Truck Tires from the Korea, Taiwan, Thailand, and Vietnam - Petitioner’s Amendment to Volume I Concerning General Issues,” dated May 20, 2020 (General Issues Supplement); and Petitioner’s “Thailand Second Supplemental Responses,” dated May 22, 2020.

⁵ See *Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping and Countervailing Duty Petitions: Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam*, 85 FR 32013 (May 28, 2020) (*Initiation Extension Notice*).

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(D) of the Act.

Commerce also finds that the petitioner has demonstrated sufficient industry support for the initiation of the requested AD investigations.⁶

Periods of Investigation

Because the Petitions were filed on May 13, 2020, the period of investigation (POI) for the Korea, Thailand, and Taiwan investigations is April 1, 2019 through March 31, 2020, and the POI for the Vietnam investigation is October 1, 2019 through March 31, 2020, pursuant to 19 CFR 351.204(b)(1).⁷

Scope of the Investigations

The products covered by these investigations are passenger tires from Korea, Taiwan, Thailand, and Vietnam. For a full description of the scope of these investigations, *see* the Appendix to this notice.

Comments on the Scope of the Investigations

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁸ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,⁹ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on July 13, 2020, which is the next

⁶ *See infra*, section on "Determination of Industry Support for the Petitions."

⁷ *See* 19 CFR 351.204(b)(1).

⁸ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁹ *See* 19 CFR 351.102(b)(21) (defining "factual information").

business day after 20 calendar days from the signature date of this notice.¹⁰ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on July 23, 2020, which is ten calendar days from the initial comment deadline.¹¹

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹² An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of passenger tires to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the

¹⁰ In this case, 20 days after initiation falls on July 12, 2020, a Sunday. Where a deadline falls on a weekend or a federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

¹¹ *See* 19 CFR 351.303(b).

¹² *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook on Electronic Filing Procedures.pdf>.

subject merchandise in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics, and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe passenger tires, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on July 13, 2020, which is the next business day after 20 calendar days from the signature date of this notice.¹³ Any rebuttal comments must be filed by 5:00 p.m. ET on July 23, 2020, which is ten calendar days from the initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the Petitions

¹³ See *Next Business Day Rule*, 70 FR at 24533.

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁴ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in

¹⁴ See section 771(10) of the Act.

different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁵

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.¹⁶ Based on our analysis of the information submitted on the record, we have determined that passenger tires, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁷

On May 21, 2020, Commerce extended the initiation deadline by 20 days to poll the domestic industry in accordance with section 732(c)(4)(D) of the Act, because it was not “clear from the Petitions whether the industry support criteria have been met”¹⁸

On May 22, 2020, we issued polling questionnaires to all known producers identified in the Petitions, as well as the USW.¹⁹ We requested that the companies/workers complete the

¹⁵ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁶ See Volume I of the Petitions at 3-5 and Exhibits I-1 and I-3.

¹⁷ For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, see country-specific AD Initiation Checklists at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam. These checklists are dated concurrently with this notice and on file electronically via ACCESS.

¹⁸ See *Initiation Extension Notice*; see also Attachment II of the country-specific AD Initiation Checklists.

¹⁹ See Memorandum, “Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam: Polling Questionnaire,” dated May 22, 2020; see also Volume I of the Petitions at 5-6 and Exhibit I-2; and General Issues Supplement at 3 and Exhibit 1.

polling questionnaire and certify their responses by the due date specified in the cover letter to the questionnaire.²⁰ The petitioner and Sumitomo²¹ provided comments on the polling questionnaire responses on June 9, 2020.²² The petitioner and Hankook²³ provided rebuttal comments on June 11, 2020.²⁴

Our analysis of the data we received in the polling questionnaire responses indicates that the domestic producers and workers who support the Petitions account for at least 25 percent of the total production of the domestic like product and more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.²⁵ Accordingly, Commerce determines that the industry support requirements of section 732(c)(4)(A) of the Act have been met and that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.²⁶

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject

²⁰ For a detailed discussion of the responses received, *see* Attachment II of the country-specific AD Initiation Checklists. The polling questionnaire and questionnaire responses are on file electronically via ACCESS.

²¹ Sumitomo Rubber (Thailand), Ltd., Sumitomo Rubber North America, Inc., and Sumitomo Rubber USA, LLC (collectively, Sumitomo). Sumitomo is a foreign producer/exporter in Thailand, a U.S. importer of passenger tires from Thailand, and a U.S. producer of passenger tires. *See* Sumitomo's Letter, "Entry of Appearance," dated May 28, 2020.

²² *See* Petitioner's Letter, "Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam: Industry Support Comments," dated June 9, 2020; *see also* Sumitomo's Letter, "Light Truck Tires from Thailand: Comments Regarding Responses to Polling Questionnaire and Industry Support for Petition," dated June 9, 2020.

²³ Hankook Tire & Technology Co., Ltd., Hankook Tire America Corp., and Hankook Tire Manufacturing Tennessee, LP (collectively, Hankook). Hankook is a Korean producer/exporter of passenger tires, a U.S. importer of passenger tires from Korea, and a U.S. producer/exporter of passenger tires. *See* Hankook's Letter, "Entry of Appearance," dated June 1, 2020.

²⁴ *See* Petitioner's Letter, "Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam: Industry Support Rebuttal Comments," dated June 11, 2020; *see also* Hankook's Letter, "Antidumping Duty Petition on Passenger Vehicle and Light Truck Tires from Korea (A-580-908): Rebuttal Industry Support Comments," dated June 11, 2020.

²⁵ *See* Attachment II of the country-specific AD Initiation Checklists.

²⁶ *Id.*

merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁷

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression or suppression; production and shipments lagging behind demand; declines in capacity utilization and employment; and declining financial performance.²⁸ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁹

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of passenger tires from Korea, Taiwan, Thailand, and Vietnam. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the country-specific AD Initiation Checklists.

U.S. Price

For Korea, Taiwan, Thailand, and Vietnam, the Petitions base export price (EP) on the average unit value of publicly available import data.³⁰

Normal Value³¹

²⁷ See Volume I of the Petitions at 19-20 and Exhibit I-9.

²⁸ See Volume I of the Petitions at 23-37 and Exhibits I-3, I-9, and I-11 through I-15.

²⁹ See country-specific AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam.

³⁰ See country-specific AD Initiation Checklists.

³¹ In accordance with section 505(a) of the Trade Preferences Extension Act of 2015 (TPEA), amending section 773(b)(2) of the Act, for these investigations, Commerce will request information necessary to calculate the

For Korea, Taiwan, and Thailand, the petitioner based NV on home market price quotes obtained through market research for passenger tires produced in and sold, or offered for sale, in each country within the applicable time period.³² For Taiwan, the petitioner provided information indicating that the price quote was below the cost of production (COP) and, therefore, the petitioner also calculated NV based on constructed value (CV). For further discussion of CV, *see* the section “Normal Value Based on Constructed Value.”

Commerce considers Vietnam to be a non-market economy (NME) country.³³ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat Vietnam as a NME country for purposes of the initiation of this investigation. Accordingly, NV in Vietnam is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.³⁴

The petitioner claims that India is an appropriate surrogate country for Vietnam because India is a market economy country that is at a level of economic development comparable to that of Vietnam and it is a significant producer of comparable merchandise.³⁵ The petitioner provided publicly available information from India to value all FOPs. Based on the information provided by the petitioner, we determine that it is appropriate to use India as a surrogate country for initiation purposes.

constructed value and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

³² *See* country-specific AD Initiation Checklists.

³³ *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016-2017*, 84 FR 18007 (April 29, 2019).

³⁴ *See* Vietnam AD Checklist.

³⁵ *See* Volume V of the Petition at 3-5 and Exhibits V-1, V-2, and V-3.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because the petitioner is not a domestic producer, but a union representing workers in the domestic industry producing the like product of passenger tires, information on the FOPs based on the foreign producers' or domestic producers' own cost experience was not reasonably available to the petitioner. Therefore, to estimate Vietnamese manufacturers' FOPs the petitioner combined the information in thirteen publicly available cost models to create direct materials models that provide the average percentage of total tire weight represented by the direct materials for passenger car tires and for light truck tires.³⁶ The petitioner valued the estimated FOPs using surrogate values from India. The petitioner calculated factory overhead, selling, general and administrative expenses, and profit based on the experience of an Indian producer of passenger tires.³⁷

Normal Value Based on Constructed Value

As noted above, the petitioner provided information indicating that the price charged for passenger tires produced in and sold, or offered for sale, in Taiwan was below the COP. Accordingly, the petitioner also based NV on CV.³⁸ Pursuant to section 773(e) of the Act, the

³⁶ See Volume V of the Petition at 8-15 and Exhibit 22.

³⁷ See Vietnam AD Checklist.

³⁸ See Taiwan AD Checklist.

petitioner calculated CV as the sum of the cost of manufacturing, selling, general, and administrative expenses, financial expenses, and profit.³⁹

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of passenger tires from Korea, Taiwan, Thailand, and Vietnam are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for passenger tires for each of the countries covered by this initiation are as follows: (1) Korea: 42.95 through 195.20 percent; (2) Taiwan: 20.57 through 116.14 percent; (3) Thailand: 106.36 through 217.50 percent; and (4) Vietnam: 5.48 through 22.30 percent.⁴⁰

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of passenger tires from Korea, Taiwan, Thailand, and Vietnam are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

In the Petitions, the petitioner named nine companies in Korea, 13 companies in Taiwan, and 26 companies in Thailand⁴¹ as producers/exporters of passenger tires.

³⁹ *Id.*

⁴⁰ See country-specific Initiation Checklists for details of calculations.

⁴¹ See Volume I of the Petition at 14 and Exhibit I-8.

Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of exporters or producers in any individual case is large such that Commerce cannot individually examine each company based upon its resources, where appropriate, Commerce intends to select mandatory respondents in that case based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the “Scope of the Investigations,” in the appendix.

On June 16, 2020, Commerce released CBP data on imports of passenger tires from Korea, Taiwan, and Thailand under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of these investigations.⁴² Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce’s website at <http://enforcement.trade.gov/apo>.

With respect to Vietnam, the petitioner named 13 companies⁴³ as producers/exporters of passenger tires in the Petitions. In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based

⁴² See Memorandum, “Antidumping Duty Investigation of Passenger Tires: Release of Customs Data from U.S. Customs and Border Protection,” dated June 16, 2020.

⁴³ See Volume I of the Petition at 14 and Exhibit I-8.

on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. Therefore, considering the number of Vietnamese producers and exporters identified in the Petitions, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Given that there are 13 producers and exporters identified in the Petitions, Commerce has determined that it will issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on Enforcement and Compliance's website at <https://www.trade.gov/ec-adcvd-case-announcements>. Producers/exporters of passenger tires from Vietnam that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement and Compliance's website. In accordance with the standard practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Vietnamese producers/exporters no later than 5:00 PM ET on July 8, 2020. All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the

deadline noted above. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.⁴⁴ The specific requirements for submitting a separate-rate application in a Vietnam investigation are outlined in detail in the application itself, which is available on Commerce's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.⁴⁵ Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from Vietnam submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

⁴⁴ See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

⁴⁵ Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

While continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.⁴⁶

Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petitions have been provided to the governments of Korea, Taiwan, Thailand, and Vietnam via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions to each exporter named in the AD Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 25 days after the date on which the ITC receives notice from Commerce of initiation of the investigations, whether there is a reasonable indication that imports of passenger tires from Korea, Taiwan, Thailand, and Vietnam are materially injuring, or threatening material injury to, a U.S. industry.⁴⁷ A negative ITC determination for any country will result in the investigation being terminated with respect to

⁴⁶ See Policy Bulletin 05.1 at 6 (emphasis added).

⁴⁷ See section 733(a) of the Act.

that country.⁴⁸ Otherwise, these AD investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce’s regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁴⁹ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁵⁰ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 504 of the TPEA amended the Act by adding the concept of particular market situation (PMS) for purposes of CV under section 773(e) of the Act.⁵¹ Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary

⁴⁸ *Id.*

⁴⁹ *See* 19 CFR 351.301(b).

⁵⁰ *See* 19 CFR 351.301(b)(2).

⁵¹ *See* TPEA, Pub. L. No. 114-27, 129 Stat. 362 (2015).

course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent’s initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone

submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁵² Parties must use the certification formats provided in 19 CFR 351.303(g).⁵³ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Commerce website at <http://enforcement.trade.gov/apo>. Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Note that Commerce has temporarily modified certain portions of its requirements for serving documents containing business proprietary information, until July 17, 2020, unless extended.⁵⁴

⁵² See section 782(b) of the Act.

⁵³ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

⁵⁴ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 29615 (May 18, 2020).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act,
and 19 CFR 351.203(c).

Dated: June 22, 2020.

Joseph A. Laroski Jr.,

Deputy Assistant Secretary

for Policy and Negotiations.

Appendix

Scope of the Investigations

The scope of these investigations is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by these investigations may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol “DOT” on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P – Identifies a tire intended primarily for service on passenger cars.

LT – Identifies a tire intended primarily for service on light trucks.

Suffix letter designations:

LT – Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a “P” or “LT” prefix, and all tires with an “LT” suffix in their sidewall markings are covered by these investigations regardless of their intended use.

In addition, all tires that lack a “P” or “LT” prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that fits passenger cars or light trucks. Sizes that fit passenger cars and light trucks include, but are not limited to, the numerical size designations listed in the passenger car section or light truck section of the Tire and Rim Association Year Book, as updated annually. The scope includes all tires that are of a size that fits passenger cars or light trucks, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope are the following types of tires:

(1) Racing car tires; such tires do not bear the symbol “DOT” on the sidewall and may be marked with “ZR” in size designation;

- (2) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;
- (3) non-pneumatic tires, such as solid rubber tires;
- (4) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:
 - (a) The size designation and load index combination molded on the tire's sidewall are listed in Table PCT-1B ("T" Type Spare Tires for Temporary Use on Passenger Vehicles) or PCT-1B ("T" Type Diagonal (Bias) Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Year Book,
 - (b) the designation "T" is molded into the tire's sidewall as part of the size designation, and,
 - (c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed is 81 MPH or a "M" rating;
- (5) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:
 - (a) The size designation molded on the tire's sidewall is listed in the ST sections of the Tire and Rim Association Year Book,
 - (b) the designation "ST" is molded into the tire's sidewall as part of the size designation,
 - (c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is "For Trailer Service Only" or "For Trailer Use Only",
 - (d) the load index molded on the tire's sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Year Book for the relevant ST tire size, and
 - (e) either
 - (i) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed does not exceed 81 MPH or an "M" rating; or
 - (ii) the tire's speed rating molded on the sidewall is 87 MPH or an "N" rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either
 - (1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;

(6) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Year Book,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is "Not For Highway Service" or "Not for Highway Use",

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 55 MPH or a "G" rating, and

(d) the tire features a recognizable off-road tread design.

The products covered by these investigations are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.90.10.10, 4011.90.10.50, 4011.90.20.10, 4011.90.20.50, 4011.90.80.10, 4011.90.80.50, 8708.70.45.30, 8708.70.45.46, 8708.70.45.48, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

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